

146732



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Information Ventures, Inc.

**File:** B-247479

**Date:** May 22, 1992

Bruce H. Kleinstein for the protester,  
James F. Trickett, Department of Health and Human Services,  
for the agency,  
John M. Melody, Esq., and David Ashen, Esq., Office of the  
General Counsel, GAO, participated in the preparation of the  
decision.

### DIGEST

Proposed sole-source award of contract for review, editing and publishing of results of scientific workshop in specific scientific journal is unobjectionable where agency requires most extensive dissemination of articles possible and agency reasonably determined that only publication in the specified journal will accomplish this end.

### DECISION

Information Ventures, Inc. (IVI) protests the proposed award of a contract on a sole-source basis to the American Diabetes Association (ADA) under solicitation No. 263-91-P-(AO)-0209, issued by the Department of Health and Human Services, National Institutes of Health (NIH), for expert review, editing and publishing of the results of a workshop on Diabetes and Native Americans in a scientific journal. IVI maintains that a noncompetitive acquisition is unjustified, and that it should be permitted to compete.

We deny the protest.

On November 20, 1991, NIH synopsisized this requirement in the Commerce Business Daily, stating its intention to award a contract to the ADA on a noncompetitive basis. The notice invited other interested potential sources to respond by furnishing an explanation of their ability to perform, which information would be considered by the agency in determining whether to conduct a competitive procurement. In responding to the synopsis, IVI briefly explained its capabilities and protested the intended sole-source award. The contracting officer denied IVI's protest.

As explained in a subsequent Justification for Other than Full and Open Competition, an award to the ADA was determined to be necessary because the widest possible circulation was required, and the ADA's publication Diabetes Care is "the only nationally recognized scientific journal that will reach the intended audience of diabetes clinicians and diabetes researchers." NIH was aware of no other similar publication which was "available in medical libraries throughout the world," and whose articles were "cited in Index Medicus and . . . listed in Science Citation Index, Current Contents/Life Science, Current Contents/Clinical Medicine, and other scientific data bases." Further, since this was the third in a series of three workshops, it was considered important that the results of this workshop on Native Americans be handled similarly to the results of the other two (Diabetes in Black Populations and Diabetes in Hispanics), which were published by the ADA, so that the results of all three workshops would be of the same quality and readily available to researchers.

In its protest, IVI principally argues that the target audience can be reached by other means--either through other scientific publications or by means of a mailing list of clinicians and researchers--and that a sole-source award to the ADA therefore cannot be justified on the basis that Diabetes Care is the only acceptable means of disseminating the articles.<sup>1</sup>

We find that the proposed sole-source award is unobjectionable. A sole-source award is justified where an agency reasonably concludes that only one known source can meet the government's needs within the required time. Competition in Contracting Act of 1994 (CICA), 41 U.S.C. § 253(c)(1) (1988); Federal Acquisition Regulation (FAR) § 6.302-1(a)(2); see Information Ventures, Inc., B-246605, Mar. 23, 1992, 92-1 CPD ¶ 302.

We find that NIH reasonably has determined that only the ADA can satisfy its need for publication of the articles in a nationally recognized scientific journal that will be

---


<sup>1</sup>In its initial protest submission, IVI also asserted that NIH should have considered the alternative of permitting the reviewing and editing to be performed by a contractor, with the final product furnished to the ADA for publication. NIH responded in its report that this alternative would be impracticable, since as a matter of policy the ADA requires all articles to be edited by its own staff experts prior to publication. IVI did not rebut the agency's position in its subsequent comments and we therefore consider this aspect of the protest to be abandoned. See Danter Elecs., Inc., B-243580, July 17, 1991, 91-2 CPD ¶ 68.

readily available for clinical and research purposes. In support of its argument, IVI has presented a computer printout of diabetes-related articles published in other journals to demonstrate that Diabetes Care is not the only available publication that will meet NIH's needs. However, IVI has made no showing, and does not even assert, that the circulation of these other publications is as extensive as that of Diabetes Care, one of the bases for the selection of this publication. Further, this list does not indicate, and IVI has not otherwise shown, that these publications are included in the numerous indexes the agency deemed essential for research purposes. IVI does state that "many, if not all of these publications are listed in Current Contents as well as Excerpta Medica," but even this indefinite statement is unsupported by references to specific publications.

IVI also has not demonstrated that its suggested alternative of independently publishing the articles and distributing them by means of mailing lists is an equivalent alternative to meeting the agency's needs. First, IVI has not shown that a sufficiently extensive list is available; it merely speculates that such a list may exist. Nor has IVI shown that, even if it were feasible to disseminate the articles in this manner, they would be included in the various medical publication indexes to the same extent as Diabetes Care, such that they would be as widely and readily available for research purposes. On the contrary, while IVI desires to compete for this requirement, IVI does not dispute the agency's position that publication in Diabetes Care is "the most effective means of achieving the agency's goals concerning diabetes research."

While agencies are required to maximize competition to the extent possible, CICA does not require that they compromise their legitimate needs to do so. 41 U.S.C § 253(c)(1); see generally Bombardier, Inc., Canadair, Challenger Div., B-243977; B-244560, Aug. 30, 1991, 91-2 CPD ¶ 224. Based on the record, we agree with IVI that there are other means of disseminating the articles in issue here. We find, however, that NIH reasonably determined that no alternative would make the articles available to clinicians and researchers as effectively as publication in Diabetes Care. Under these circumstances, the proposed sole-source award to ADA is proper.

The protest is denied.

  
for James F. Hinchman  
General Counsel